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PRE-APPEAL BRIEF REQUEST FOR REVIEW

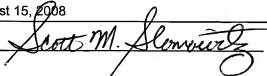
Docket Number (Optional)

Q1014/20014

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on August 15, 2008

Signature



Typed or printed name Scott M. Slomowitz

Application Number

10/628,173

Filed

July 28, 2003

First Named Inventor

Charles J. THOMAS

Art Unit

2137

Examiner

Michael J. Pyzocha

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐

applicant/inventor.

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

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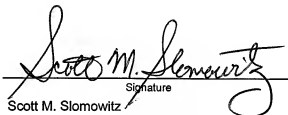
attorney or agent of record.

Registration number 39,032

☐

attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34



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August 15, 2008

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below.

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*Total of _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
PATENT EXAMINING OPERATION

PATENT

Applicants: Charles J. THOMAS, et al.

Serial No: 10/628,173

Group Art Unit: 2137

Filed: July 23, 2003

Examiner: Michael J. Pyzocha

Attorney Docket No.: Q1014/20014

Confirmation No.: 5596

For: SYSTEM AND METHOD OF GUARANTEED ANONYMITY OF CABLE
TELEVISION VIEWERSHIP BEHAVIOR

**REMARKS/ARGUMENTS IN SUPPORT OF
PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

In response to the Final Rejection dated, April 1, 2008 and Advisory Action dated July 17, 2008, Applicants request this pre-appeal brief request.

Error In the Examiner's Rejection

Examiner's Omissions of One or More Essential Elements Needed for a Prima Facie Rejection

The Examiner has maintained his §103(a) rejection of independent Claims 27 and 28 based on U.S. Patent No. 7,139,723 (Conkwright, et al, hereinafter "Conkwright") in view of U.S. Patent No. 7,055,165 (Connelly, hereinafter "Connelly").

However, the Examiner has failed to show where Conkwright teaches or suggests¹ the following respective limitations of Claims 27 and 28:

substituting said source identification indicia with anonymous identification indicia, **and wherein said anonymous identification indicia can be traced back to the source by a cable operator entity of the cable television system but cannot be traced back to the source by a third party; ...** (Claim 27)

¹ The Examiner admits that he is only citing Connelly for the teaching of encrypting and decrypting the first message (Advisory Action dated July 17, 2008).

means for generating anonymous identification indicia and for substituting the source identifier indicia with said anonymous identification indicia to form a first decrypted message having said anonymous identification indicia embedded therein, wherein said anonymous identification indicia can be traced back to the source by a cable operator entity of the cable television system but cannot be traced back to the source by a third party... (Claim 28)

The Examiner's recitation of column 4, line 58 through column 5, line 17, as well as column 11, lines 5-17, of Conkwright do not teach or even suggest such a limitation.

One of the important features of the present invention is that **the cable operator** is only able to identify the source of the message but is unable to know the content of the message (see Present Application, p. 10, lines 25-27; p. 11, lines 11-19) which is destined for a third party, e.g., the entity that conducts the viewership behavior analysis (see Present Application, p. 10, lines 2-5). As a result, the third party knows the content of the message but has no way of knowing the identity of message sender, and is not able to trace the identity of the sender. In other words, the contents of the message have no connection to its sender in any way, geographically or otherwise.

In contrast, the portion of Conkwright cited by the Examiner permits the ultimate user of the transmitted data to associate the data with geographic codes (Conkwright, col. 5, lines 4-9). In particular, Conkwright specifies that the preferred embodiment identifies set top box (STB) data by zip code, area code and prefix, or other geographic identifier associated with a region in which a set top box resides. (Conkwright, col. 5, lines 10-14). Conkwright further explains that correlations between STBs and zip codes can be maintained in a cable television or other content provider's billing system; (Conkwright, col. 5, lines 14-16). The term "content provider" is an entity other than the cable system operator. The presence of such correlations between STBs and

zip codes by entities other than the cable system operator teaches away from Claims 27 and 28.

Since the dependent claims, namely, Claims 2-12 and 14-24 ultimately depend from Claims 27 and 28 respectively, they are also patentable for the same reasons, as well as for the particular reasons recently cited in Applicants' Request for Reconsideration dated June 20, 2008.

Thus, Applicants respectfully submit that Claims 2-12, 14-24 and 27-28 are in condition for allowance. Accordingly, prompt and favorable examination on the merits is respectfully requested.

For at least the reasons set forth above, it is respectfully submitted that the above-identified application is in condition for allowance and that the Review Panel should order the Examiner to withdraw the rejections. Favorable consideration by the Review Panel and prompt allowance of the claims are respectfully requested.

Respectfully submitted,

CAESAR, RIVISE, BERNSTEIN,
COHEN & POKOTILOW, LTD.

August 15, 2008

Please charge or credit our
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to effect entry and/or ensure
consideration of this submission.

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